

REMARKS

This Amendment is in response to a non-final Office action (Paper №. 05292006) dated on the 2nd of June 2006.

Status of the Claims

Claims 1-6, 14-24 and 26-41 are pending in this application. Claims 23, 26, 28-32, and 37 are amended for the purpose of clarity. Claims 4 through 6 have been allowed, and dependent claims 3, 15, 17, 20, 31 through 33 and 36 are identified in Paper №. 05292006 to be allowable, but are objected to as depending upon rejected claims.

Reasons for Allowance

Applicant notes with appreciation the explanation given by the Examiner in the *Reasons for Allowance* of claims 3 through 6, 15, 17, 20, 31 through 33 and 36 are identified in Paper №. 05292006.

Request for Clarification Under 37 CFR §1.104

Regarding Claims 28, 29, 34, and 35

Claims 28, 29, 34, and 35 are marked as rejected in the Office Action Summary (Page 1 of Paper №. 05292006); Applicant notes however, pursuant to 37 CFR §1.104(a), (b) and (c) that neither claim 28, 29, 34 nor 35 has been rejected in any of the several distinct grounds of rejection set forth by Paper №. 05292006. As a precaution, a telephone call made to the Examiner by Applicant's attorney on Friday afternoon, on the 1st of September 2006. Applicant's attorney understands that the Examiner was not instantly familiar with this application and, in view of the

lateness of the hour, was not able immediately respond. The offer to expressly indicate the status of claims 28, 29, 34, and 35 in subsequent non-final Office correspondence is accepted with appreciation.

Rejection of Claim 1 under 35 U.S.C. §103(a)

Claim 1 is rejected under 35 U.S.C. §103(a) as being unpatentable over Meyers *et al.* (US 6,170,055) in view of Jeon (US 6,122,734). Applicant traverses the Examiner's rejection for the following reasons.

In support of the rejection, the Examiner wrote:

“Meyers et al. disclose . . . a conflict repair control program (i.e. recovery application) having a code means (a) loaded in the main memory of the computer system for checking whether the auxiliary memory unit is normal, and a code means (b) for repairing damaged files in the auxiliary memory unit using the program image when abnormality exists in the auxiliary memory unit (see col. 13, lines 1-12). . . .

Jeon disclose the CD-ROM disk manufacturing system which can record the operating system programs and application programs (see col. 1, lines 21-27).”

Applicant submits that the Examiner's reasoning is in error.

First, regarding the conflict repair control program, Applicant's claim 1 reads “a conflict repair control program having . . . a code means (b) for repairing damaged files in the auxiliary memory unit *using the program image* . . .” Jeon '734 discloses a CD-ROM disk having operating systems and application programs, but does not disclose how the programs could be involved in the repairing process disclosed in Meyers *et al.* '055. Jeon '734 teaches that “the present invention relates to a bootable compact disk” (col. 1, line 21). The function of the disk of Jeon '734 is for

booting a computer system, and is not related to the repairing process, while Applicant claim 1 recites “repairing damaged files in the auxiliary memory unit using the program image.” Recording medium of Meyers *et al.* ‘055 and disk of Jeon ‘734 are by themselves complete and do not rely on each other, while the repairing process of Applicant’s claim 1 relies on the program image. Therefore, there is no motivation to combine the teachings of the references.

Second, Applicant’s claim 1 reads “a program image consisting of . . . *a list of* the operating system and application programs.” The Examiner hasn’t completely considered the feature of Applicant’s claim 1, and hasn’t provided where Jeon ‘734 teaches the disk has a list of the operating system and application programs. The necessity of the list is described in Applicant specification (page 9, lines 9-13) and Applicant’s claim 3. In fact, nowhere does Jeon ‘734 teach that the disk has a list of the operating system and application programs. Therefore, the combined teachings of references do not suggest all the claim limitations. Withdrawal of the rejection is respectfully requested.

Rejection of Claim 14 under 35 U.S.C. §103(a)

Claim 14 is rejected under 35 U.S.C. §103(a) as being unpatentable over Meyers *et al.* (US 6,170,055) in view of Jeon (US 6,122,734). Applicant traverses the Examiner’s rejection for the following reasons.

In support of the rejection, the Examiner wrote:

“Meyer et al. disclose . . . backing up data files stored in the auxiliary memory and formatting the auxiliary memory (see col. 13, lines 1-26).”

The Examiner asserts that col. 13, lines 1-26 of Meyers *et al.* '055 discloses the step of backing up and the step of formatting, but the Examiner's assertion is in error. Col. 13, lines 1-26 of Meyers *et al.* '055 describes the processes illustrated in FIG. 2 of Meyers *et al.* '055. In step 118, "the recovery software may prompt the user to ascertain if a backup of the computer's hard disk exists" (col. 13, lines 15-17). If a backup exists, then at step 122, the user is prompted to restore the backed up files (col. 13, lines 17-19). If a backup does not exist, Meyers *et al.* '055 teaches to contact service organization in step 120. None of these processes is relevant to the steps of backing up and formatting as set forth in Applicant's claim 14. Meyers *et al.* '055 does not teach to format the hard disk, but teaches to contact service organization if the error persists. Therefore, there is no suggestion to combine the teachings of the references. Withdrawal of the rejection is respectfully requested.

Rejection of Claim 16 under 35 U.S.C. 102(e)

Claim 16 is rejected under 35 U.S.C. 102(e) as being anticipated by Litchman *et al.* (US Patent No. 5,787,246). Applicant traverses the Examiner's rejection for the following reasons.

In support of the rejection, the Examiner wrote in part:

"Litchman et al. disclose . . .
checking for a conflict inside said computer by non-removable media
inside said computer when said computer has said operating system
fully loaded and said user friendly graphical user interface is present
(see col. 15, lines 32-44);
repairing any conflicts by non-removable media inside said computer
upon detection of said conflicts in said checking step (see col. 24,
lines 18-61);
returning to a user friendly graphical user interface for said operating
system if all conflicts have been repaired (see col. 24, lines 18-61)."

Applicant submits that the Examiner's reasoning is in error. The invention of Litchman *et al.* '246 is a system for configuring devices of a computer system (abstract), and constantly teaches that the configuration is performed before BOOT process, while Applicant's claim 16 recites "checking for a conflict inside said computer by non-removable media inside said computer **when said computer has said operating system fully loaded . . .**" As well known in the art, BOOT process occurs before an operating system is fully loaded.

FIGS. 4A-4C of Litchman *et al.* '246 shows the entire processes of the configuration. Litchman *et al.* '246 teaches that "upon completion of this portion of the configuration process, the conventional POST and BOOT routines are then conducted for the computer 8 during the steps 66 and 68, respectively. As a result of loading the operating system 10, selected configuration files of the operating system 10, such as Config.Sys and the Autoexec.Bat files, are processed by the computer 8" (col. 19, lines 60-66).

Litchman *et al.* '246 also teaches that there are boot-level devices and nonboot-level devices (col. 20, lines 13-21). Boot-level devices are configured during **steps 42 and 64** (col. 20, lines 14-15), which is before BOOT step 68 as shown in FIG. 4B. Litchman *et al.* '246 teaches that "the remaining devices 20 connected to the integrated bus 15 are configured only after the boot operations for the computer 8 have been completed" (col. 20, lines 15-18), but also teaches that "However, the configuration operations for the nonboot-level devices on the integrated bus 15 are supported by the collection of device information that occurred **prior to** the BOOT process of step 68" (col. 20, lines 18-21). Therefore, for both of boot-level devices and nonboot-level devices, the device information is collected prior to BOOT step 68, which is before an operating system is fully loaded.

Applicant's claim 16 clearly recites "checking for a conflict inside said computer by non-

removable media inside said computer *when said computer has said operating system fully loaded* and said user friendly graphical user interface is present.” A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Therefore, the cited prior art reference does not teach every claimed element. Withdrawal of the rejection is respectfully requested.

Rejection of Claim 18 under 35 U.S.C. 102(e)

Claim 18 is rejected under 35 U.S.C. 102(e) as being anticipated by Litchman et al. (US Patent No. 5,787,246). Applicant traverses the Examiner’s rejection for the following reasons.

In support of the rejection, the Examiner wrote:

“Litchman et al. discloses the conflicts selected from the group consisting of system registry and hardware information (see col. 25, lines 1-10).”

Applicant submits that the Examiner’s interpretation of the col. 25, lines 1-10 of Litchman et al. ‘246 is in error. Col. 25, lines 1-10 does not describe type of conflict, but describes what elements are generally included in the operating system by stating “the operating system 10 comprises numerous software programs or modules, including . . .” (col. 24 line 67 - col. 25, line 10). It appears that the Examiner assumes that the listed elements could make a conflict, but in order to reject the claim under 35 U.S.C. 102(e), “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements listed in the col. 25, lines 1-10 of Litchman et al. ‘246 cannot

be interpreted as “a conflict” as set forth in Applicant’s claim 18. Therefore, the cited prior art reference does not teach every claimed element. Withdrawal of the rejection is respectfully requested.

Rejection of Claim 21 under 35 U.S.C. 102(e)

Claim 21 is rejected under 35 U.S.C. 102(e) as being anticipated by Litchman et al. (US Patent No. 5,787,246). Applicant traverses the Examiner’s rejection for the following reasons.

In the support of the rejection, the Examiner wrote:

“Litchman et al. discloses the periodically update the configuration of the system (see col. 16, line 56 through col. 17, line 6).”

Applicant submits that the Examiner’s claim reading is in error. Applicant’s claim 21 reads “said checking step being run *automatically periodically* . . .” Nowhere does Litchman et al. ‘246 teach to run the checking program automatically and periodically. Therefore, there is no anticipation. Withdrawal of the rejection is respectfully requested.

Regarding Claim 23

Applicant amends claim 23 for the purpose of clarity. Amended claim 23 recites that “said CD-ROM . . . partitions and formats said non-removable media . . .” In support of the rejection of the previously presented claim 23, the Examiner provided reasoning for backing up all files stored in the non-removable media, but hasn’t considered another features of the claim 23. Jeon ‘734 discloses a CD-ROM backing up files, but does not disclose a CD-ROM that partitions and formats the non-removable media. Reexamination of the amended claim 23 and withdrawal of the rejection

are respectfully requested.

Rejection of Claim 27 under 35 U.S.C. §103(a)

Claim 27 is rejected under 35 U.S.C. §103(a) as being unpatentable over Litchman *et al.* '246 in view of Jeon *et al.* '734. Applicant traverses the Examiner's rejection with the same rationale as discussed regarding claim 16.

Applicant's claim 27 recites "a non-removable conflict control unit that is accessed by said computer whenever a conflict within said computer is encountered ***after a graphical user interface for an operating system is presented*** to a user via said input/output device." As discussed regarding claim 16, the configuration process disclosed in Litchman *et al.* '246 is performed prior to BOOT step 68, which is before a graphical user interface for an operating system is presented. Therefore, the combined teachings of the references do not suggest all claimed features as set forth in Applicant's claim 27. Withdrawal of the rejection are respectfully requested.

Claims 26, 28-32, and 37 are amended for purposes of clarity.

No fee is incurred by this amendment.

Conclusion

In view of the above, all claims are deemed to be allowable and this application is believed to be in condition to be passed to issue. Reconsideration of the rejections and objections is requested. Should any questions remain unresolved, the Examiner is requested to telephone Applicant's attorney.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert E. Bushnell", written over a horizontal line.

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